IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.3239 OF 2004
IN
SUIT NO.3154 OF 2004

Smt.Saraswati Dalmia & Ors. ...Plaintiffs.
V/s.
Collector of Mumbai City & Ors. ...Defendants.

Mr.Janak Dwarkadas, Sr.Adv. i/b Khaitan & Co.for the Plaintiffs.
Mr.Ravi Kadam, Adv.General with Ms.Geeta Shastri A.G.P. for the Defendant Nos.1 to 5.

CORAM: S.J.VAZIFDAR, J.
DATED: 3RD OCTOBER, 2006.

P.C.:

1. Mr.Janak Dwarkadas states that after the filing of the suit and during the pendency of the above Notice of Motion, the matter was sent to the Commissioner for recording evidence on the preliminary issue. In the course of recording of evidence before the Commissioner the following documents had been produced:

1. Inward Register of Defendant No.1 for the period of 16.9.1983 to 30.9.1984.

2. Letter dated 23.12.1995 from Collector of Mumbai to the Director of Town Planning.

3. Letter dated 13.3.1986 addressed by Defendant No.4 to the Director of Town Planning.

4. Letter dated 4.4.1986 from the Director Town Planning to Defendant No.1.

5. Letter dated 4.11.1986 from Assistant Director Town Planning to District Collector.

6. Letter/Note dated 19.11.1986 from Defendant No.4 to Defendant No.1.

2. Mr.Dwarkadas submits that the aforesaid documents evidence the fact that they had exercised their right of renewal prior to the expiry of the term of the lease and as such are entitled to renewal thereof for a further term of 50 years commencing from 1st November, 1985.

3. In light of the aforesaid evidence, the Plaintiffs desire to approach the State Government to consider their case on merits and without prejudice to the pending suit.

4. The Plaintiff is at liberty to approach the

State Government as desired. The learned Advocate General states that an application ought to be made to defendant no.3- Minister of Revenue Department. If the application is made within a period of two weeks from today, the State Government shall dispose of the same in accordance with law.

5. In view thereof, no further orders on this notice of motion are necessary. The status-quo order already passed shall continue for a period of two weeks from date of service of the order that may be passed in the event of the same being adverse to the Plaintiff.

6. The Notice of Motion is accordingly disposed of.